

AGREEMENT

This Agreement is made and entered into by and between LANCASTER COUNTY SCHOOL DISTRICT 001, a political subdivision, commonly known as Lincoln Public Schools (hereinafter referred to as "LPS") and the CITY OF LINCOLN, NEBRASKA, a municipal corporation, (hereinafter referred to as "City").

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et seq.*, (the "Act"), of the State of Nebraska, provides that two or more public entities may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act and no separate legal or administrative entity is created under this Agreement; and

WHEREAS, the parties desire to share space for joint programming at Park Middle School located in the City of Lincoln and owned by LPS, and agree that a basement area of approximately 2,750 square feet at Park Middle School will be renovated for this purpose, hereinafter referred to as the "Shared Space"; and

WHEREAS, the purpose of this joint action is to provide physical facilities and to permit maximum use thereof so that both LPS and City may fulfill their responsibilities to the public at a lesser cost than if each acted independently;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by the parties hereto as follows:

1. LPS has employed an architect to develop all necessary plans and specifications for the Shared Space which have been reviewed and approved by the City. It is agreed that the City shall pay for the total costs of renovation, including architect's fees. In such regard, the final plans and specifications shall be approved by LPS and City prior to the request for bids. All bids received will be considered by LPS which will then make a recommendation to the City with respect to the awarding of construction contracts, and upon receiving approval by the City, LPS shall enter into construction contracts therefor. It is fully understood and agreed that either LPS or City may reject any and all construction bids. LPS shall have the responsibility of general overseeing of the construction of the Shared Space in accordance with the plans and specifications developed by the architect. The City will also be kept advised with respect to the progress of the project and may counsel with LPS whenever it deems appropriate.

2. All costs of construction and architect's fees for renovation of the Shared Space will be paid to LPS by City. Such payments shall be made when due as required by the construction contract, unless otherwise agreed. It is understood by the parties that such amounts may from time to time be adjusted as the actual cost of construction is determined. LPS may request assurances of payment or implement procedures to guarantee payments prior to entering into the construction contracts hereunder.

3. Upon completion of the project, the Shared Space shall be utilized by the parties as provided for herein, it being understood that the predominate use shall be by LPS from commencement to dismissal each day during school days, and by the City at all other times. The Common Facility Committee, hereinafter provided for, shall from time to time assist in determining proper utilization. Any fees collected for usage by other than the LPS or City for the Shared Space shall be placed in a fund and applied against the operational and maintenance costs. It is further understood and agreed that LPS may from time to time be permitted to use the Shared Space during City times, and the City may be permitted to use Shared Space during LPS times under such terms and conditions as may be mutually agreed to by the parties. During the use of the Shared Space by either party, both parties shall exercise that degree of control and supervision as is necessary for the effective management and use of Park Middle School and the Shared Space. Such control and supervision will include, but is not limited to, enforcement of rules and regulations for the safety of participants and maintenance of the facilities and Shared Space, and suspension of participants from the building and grounds in accordance with rules and regulations as set forth by LPS, the City, or Common Facility Committee. Such rules and regulations shall state that the City's control and supervision regarding suspension of participants from the Shared Space shall be limited to those times when classes are not in session. The City use of the Shared Space will be concentrated in the area of recreation programming under the auspices of the Parks and Recreation Department of the City or such other department as designated from time to time with LPS approval, and will be consistent with the role and mission of LPS. All City programming shall be funded, sponsored and staffed on an ongoing basis during the term of this Agreement by the City and LPS shall have no responsibility therefore. The parties and the Common Facility Committee may from time to time refine or further define usage times, programming or the actual "Shared Space" area to be utilized.

4. Each of the parties shall have an easement across the property for access to and utilization of the Shared Space. Each of the parties shall provide the staff and personnel necessary to conduct its activities and programs in the Shared Space. Maintenance, repairs, janitorial services, utility costs, insurance, and all other operational costs of the Shared Space will be provided and paid for by LPS with the City paying to LPS a prorated cost share thereof on an equitable basis. Each party shall pay for their own equipment, if any, used in the Shared Space unless otherwise mutually agreed.

5. The Common Facility Committee, formally known as the Irving Joint Facility Board, created under an Agreement between the parties for the Irving Recreational Facility dated November 25, 1975, and amended in Ordinance No. 14790 dated Nov. 9, 1987, shall be advisory only and shall assist and advise the parties in this joint undertaking on the following:

A. Prior to completion of the Shared Space, and annually thereafter, the Common Facility Committee shall adopt a budget of the cost of maintenance, repairs, insurance, utilities and all other operational costs of the Shared Space;

B. The Common Facility Committee shall allocate all costs reflected in the budget between LPS and City in accordance with the provisions of this Agreement. The Common Facility Committee shall review the allocation of costs after each year's operation and make any adjustments that are fair and equitable;

C. If deemed desirable, the Common Facility Committee may establish a regular schedule for reciprocal use by each party of the space of the other;

D. In the event the Common Facility Committee should be unable to agree as to any one or more of the items assigned to it or any other matters arising under this agreement, or if the Board of Education or City Council should object to any item or allocation of costs and the Common Facility Committee should be unable to satisfy such objection, the question shall be arbitrated by a competent and qualified person selected by the City Attorney and legal counsel of LPS.

6. This agreement shall remain in full force and effect until September 1, 2030, unless sooner terminated or modified by mutual agreement of the parties. The term of this agreement may be extended for any further term or terms as the parties may from time to time mutually agree.

7. Upon termination of this Agreement, whether during or at the expiration of the original term or any extended term thereof or by mutual agreement of the parties, a multitude of issues will be involved some of which are unknown at this time. The parties agree to adopt a termination and winding up plan to deal with all of the issues relative to the termination of this Agreement. To the extent that a termination and winding up plan is not arrived at by the parties, such issues will be submitted to arbitration by an arbitrator selected as provided in paragraph 5.

8. The City hereby designates the Director of the Parks and Recreation Department of the City of Lincoln as its program administrator under this Agreement. LPS hereby designates the Director of Facilities and Maintenance as its program administrator under this Agreement. The program administrators shall be directly responsible for developing, designing, and managing the Shared Space, costs and expenses, and cooperative undertaking set forth in this Agreement. Except as otherwise provided herein, the administrators shall mutually administer this Agreement and agree on the rules, regulations, practices, procedures and parameters of the utilization of the space and programming as provided herein. The program administrator may be changed from time to time by any party appointing such administrator upon no less than seven (7) days advance written notice to the other parties.

IN WITNESS WHEREOF, each of the parties hereto have executed and delivered this document by its duly authorized officer this ____ day of _____, 2005.

LANCASTER COUNTY SCHOOL DISTRICT
NO. 001, AKA LINCOLN PUBLIC SCHOOLS,
a political subdivision,

BY: _____

CITY OF LINCOLN, NEBRASKA
a municipal corporation,

BY: _____
Coleen J. Seng, Mayor